

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services amends Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 47, "Diversion Initiatives," and Chapter 58, "Emergency Assistance," and rescinds Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code, and adopts a new chapter with the same title.

These amendments combine two Notices of Intended Action. One Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7126B** to solicit comment on an amendment Adopted and Filed Emergency that was published on the same date as **ARC 7125B**. That amendment increased the PROMISE JOBS mileage reimbursement rate from \$0.30 per mile to \$0.34 per mile. The purpose of the amendment was to align the reimbursement rate more closely with the actual cost of transportation. Increased fuel prices were recognized as a potential barrier to FIP participants' ability to comply with the requirements of their Family Investment Agreement, to avoid FIP sanctions, and to progress on their plans to achieve self-sufficiency.

The Department received no comments on that Notice of Intended Action. Similar language was included in the Notice of Intended Action published in the Iowa Administrative Bulletin on October 22, 2008, as **ARC 7287B**. Due to the rescission of Chapter 93 and the adoption of a new Chapter 93, the reimbursement rate is located in subparagraph 93.11(3)"b"(2), instead of paragraph 93.110(6)"b," as indicated in **ARC 7126B**.

The other amendments included in the Notice of Intended Action published as **ARC 7287B** update requirements for participants in the PROMISE JOBS work and training program based on changes to federal regulations for the Temporary Assistance for Needy Families (TANF) program. Public Law 109-171, the Deficit Reduction Act of 2005, reauthorized TANF block grants and required each state to submit a Work Verification Plan that outlines how the state will meet all of the Act's requirements. The Department submitted an update to its plan in August 2008.

In order to move families quickly into work activities, Iowa instituted rules in November 2004 to require clients to sign a Family Investment Agreement (FIA) before being approved for benefits under the Family Investment Program (FIP). These amendments require FIA reviews at least once every six months in order to ensure use of appropriate FIA activities and accurate reporting.

Federal regulations require that not more than 30 percent of the clients counted toward meeting the state's work participation rate may use vocational educational training or high school and GED activities (for those under age 20) to meet the work participation rate. Iowa has typically been close to the 30 percent limit. If the limit is exceeded, the excess participation hours do not count toward the state's performance. In order to avoid the necessity of waiting lists, Iowa has chosen to clarify who should be approved for education or training so that those participants using education or training as part of their FIA are those most likely to be able to use the education or training to reach self-sufficiency. These amendments:

- Require a participant to complete an educational evaluation before adding education or training to the FIA.
- Require documentation of the information used to determine likelihood of success and the reasons for approving or denying the use of education or training in a participant's FIA.
- Remove the requirement to deny education or training if the participant has already received education or training funded by PROMISE JOBS. The decision to approve additional education or training will take into account any education and training the participant already has had along with the participant's need for additional skills to obtain self-sufficiency.
- Expand on and clarify the use of academic probation to give participants a second chance, while still focusing education and training supports on those participants most likely to succeed.

- Require Child Care Assistance received while participating in education or training and not a PROMISE JOBS participant to count toward the 24-month PROMISE JOBS limit that applies to child care received while in education or training.

- Establish a separate 24-month limit for other education or training expenses, such as transportation, rather than combining the two allowances and counting a month of assistance toward the limit when child care may not have been used.

Other changes related to countable PROMISE JOBS activities are:

- Self-employment hours are counted as a work activity using the same method used for eligibility and benefit determination.

- Clients participating in unpaid community service and work experience cannot be required to participate for additional hours above an amount equal to their FIP grant divided by the minimum wage. For single parents with a child under the age of six, the Food Assistance benefit amount is added to the FIP grant amount, then divided by the minimum wage to determine maximum hours of participation.

- Substance abuse treatment, mental health treatment, and other rehabilitative activities are approvable FIA job-readiness activities. Need for the activity must be documented and participation verified.

- Work hours that a participant misses for specific holidays and approved absences can be counted toward participation requirements. Additional acceptable reasons for missing FIA activities are allowed.

PROMISE JOBS participants who do not carry out the responsibilities of the FIA are considered to have chosen a limited benefit plan, meaning that FIP benefits to the participant or to the entire household are suspended until the person whose actions caused the limited benefit plan resumes FIA responsibilities. When a household member subsequently chooses another limited benefit plan, FIP benefits cease for six months, and ineligibility continues after the six-month period until the person whose actions caused the limited benefit plan resumes FIA responsibilities. Legislation in 2008 Iowa Acts, Senate File 2269, gives the Department flexibility in the circumstances under which the six-month period of ineligibility applies for a subsequent limited benefit plan. These rules apply this flexibility as follows:

- Allow PROMISE JOBS to void a limited benefit plan when the limited benefit plan was imposed for failure to verify hours of participation and the client provides the verification by the tenth day following the effective date of the limited benefit plan, even if the client has chosen a limited benefit plan before.

- Allow a limited benefit plan to be considered imposed in error if the client reveals (and verifies, if applicable) a problem or barrier that contributed to the failure that resulted in the limited benefit plan.

- Eliminate the requirement to send a written reminder before imposing a limited benefit plan for failure to verify hours of participation in FIA activities since the client can provide the information after the limited benefit plan is imposed.

The amendments make the following changes to verification requirements:

- Require clients to verify actual hours spent on job search contacts instead of using a standard one hour per contact.

- Require workers to verify actual hours of employment at least once every six months and project hours for the next six months.

- Count one hour of reported unsupervised homework time, require clients to verify all other homework time, and count hours only up to the amount the educational institution estimates is needed for the course of study.

- Allow distance learning hours (via the Internet or video conference) as an approvable educational activity only to the extent time and attendance can be verified.

Chapter 93 is reorganized to remove discrepancies and redundancies, match current practices, and improve the clarity and structure of the chapter. Internal and external cross references are updated to reflect the reorganization. The following changes reflect current practice:

- The descriptions of job club and workplace essentials activities have changed to reflect current curriculum and method of delivery.

- Requirements for structured job search specify that participants must report daily to the job club site.

- In order to encourage job applications, support services are provided for unplanned job opportunities even if job search is not included in the participant's FIA.
- In order to ensure full participation, the job search plan must include the number of hours committed to the activity each week and the due date for providing documentation.
- The definitions of full-time and part-time employment are changed to match federal requirements for reporting activities.

Although the Department received no formal comments on either Notice of Intended Action, the Department has made numerous changes to these amendments in response to issues raised while planning for implementation, including the following:

- Added the following phrase to the last sentence of subparagraph 41.24(8)“e”(1): “except when the participant has failed to provide verification of hours of employment or participation as described in paragraph ‘h.’”
- Changed the references to “attendance” in paragraph 41.24(8)“h” to read “employment or participation” for clarity.
- Added the following phrase to the definition of “participant” in rule 441—93.1(239B): “a parent or relative living in the home of a child approved to receive FIP benefits, or a person reconsidering a subsequent limited benefit plan.”
- Removed the introductory paragraph of rule 441—93.3(239B).
- Added new subparagraph (7) to paragraph 93.3(4)“a” as follows: “(7) The availability of family planning counseling services in the area and the financial implications of newly born children on the participant’s family.”
- Deleted the second sentence in the introductory paragraph of rule 441—93.4(239B) and added the following phrase to the first sentence: “and is an eligibility requirement for the family investment program as specified in rule 441—41.24(239B).”
- Replaced the reference “blind or disabled” in paragraphs 93.4(2)“a” and “b” with the phrase “receiving Supplemental Security Income (SSI).”
- Changed subparagraph 93.4(3)“b”(2) to read as follows: “The self-sufficiency plan may be included in the participant’s FIA if the self-sufficiency plan meets the requirements of this chapter and is deemed by the PROMISE JOBS worker to be appropriate to the family circumstances.”
- Clarified in subparagraph 93.4(5)“c”(2) that a participant who claims a disability that is expected to last more than 12 months is required to apply for Social Security and SSI benefits as a condition of FIP eligibility.
- Deleted proposed paragraph 93.4(6)“c,” as paragraph “a” covers all applicant situations.
- Added a new subparagraph (1) to paragraph 93.4(8)“a” to cover participants who have participated satisfactorily but are not self-sufficient by the end date of the FIA, added a cross reference to barriers in renumbered subparagraph (2), and changed language in both renumbered subparagraphs for consistency.
- Deleted the word “physical” from the phrase “any physical condition” in paragraph 93.5(2)“b.”
- Changed the word “assessment” to “evaluation” in the catchwords of subrule 93.5(3).
- Deleted the language in paragraphs 93.7(1)“d” and “e” except for the cross reference to subrule 93.10(2), and relettered paragraphs “f” and “g” accordingly.
- Deleted the phrase “and reasons for approval” from paragraph 93.8(5)“b.”
- Clarified the wording of subrule 93.8(6), introductory paragraph, and subparagraphs 93.8(6)“a”(1) and (2), and added a new subparagraph (4) to limit payment to the nearest facility unless training at a more distant facility will allow the participant to reach self-sufficiency sooner.
- Removed proposed subparagraph 93.8(6)“d”(4) and renumbered the remaining subparagraphs accordingly.
- Added a requirement to submit documentation of grades and academic progress to paragraph 93.8(7)“b.”
- Changed the wording of paragraph 93.9(3)“a” to allow information about family planning counseling to be delivered by the Department worker during PROMISE JOBS orientation as an

alternative to the PROMISE JOBS worker's providing the information during the assessment, and to allow use of forms other than the Self-Assessment for this purpose if approved by the Department.

- Revised the wording of subrule 93.10(1) to clarify that PROMISE JOBS is responsible for issuing written notification and that the requirements also apply to verification of hours of participation, but do not apply to offset of expense payments.

- Rewrote portions of subrule 93.10(2) to include verification of progress, to clarify when the participant is responsible for submitting the required documentation, to allow high school or GED students to verify hours of participation without a signature from the training provider, and to remove the paragraph on verifying homework hours.

- Added language to subrule 93.13(1) and paragraph 93.13(2)“m” to clarify that a written reminder is not required when a participant fails to verify hours of employment or participation.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on December 10, 2008.

These amendments are intended to implement Iowa Code Supplement section 239B.17 as amended by 2008 Iowa Acts, Senate File 2269, and Iowa Code sections 239B.18 to 239B.22.

These amendments shall become effective on March 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 40, 41, 47, 58; adopt Ch 93] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7126B**, IAB 9/10/08, and as **ARC 7287B**, IAB 10/22/08.

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[For replacement pages for IAC, see IAC Supplement 1/14/09.]